

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

JOE H. BANDY, III,

Civil No. 06-0173 (JRT/SRN)

Plaintiff,
v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

ROBERT FENEIS, J. SOUTHWICK,
DENISE BARRGER, DOUGLAS
OLSON, CALVIN STENLUND, RALPH
FLESHER, JOSEPH COSGROVE, JIM
ZAWACKI, TIM GORR, GREG SMITH,
BETH WALKER, MR. MADDOX,
CAPTAIN SASS, LIEUTENANT
PENTLAND, KENDAL, SORRY AND
ROSSOLLI,

Defendants.

Joe H. Bandy, #125257, Minnesota Correctional Facility, 1000 Lakeshore Drive, Moose Lake, MN 55767, pro se plaintiff..

Angela Behrens, **MINNESOTA ATTORNEY GENERAL'S OFFICE**, 445 Minnesota Street, Suite 900, St. Paul, MN 551001, for defendants Feneis, Barrger, Olson, Stenlund, Cosgrove, Zawacki, Gorr, Smith, Walker, Maddox, Sass, and Pentland.

Carolin J. Nearing, **GERAGHTY, O'LOUGHLIN & KENNY, PA**, Alliance Bank Center, Suite 1100, St. Paul, MN 55101, for defendant Southwick.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Susan Richard Nelson, dated July 25, 2008, all the files and records, and no objections having been filed to said Report and Recommendation.

Based upon the Report and Recommendation of the Magistrate Judge, and all of the files, records and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The Motion for Summary Judgment filed by Defendants Robert Feneis, Denise Barger, Douglas Olson, Calvin Stenlund, Joseph Cosgrove, Jim Zawacki, Tim Gorr, Greg Smith, Beth Walker, Mr. Maddox, Captain Sass, and Lieutenant Pentland [Doc. No. 91] is **GRANTED**;
2. Plaintiff's claims of deliberate indifference to medical needs, racial discrimination, retaliation by denying law library access, and First Amendment and equal protection violations against Defendants Robert Feneis, Denise Barger, Douglas Olson, Calvin Stenlund, Joseph Cosgrove, Jim Zawacki, Tim Gorr, Greg Smith, Beth Walker, Mr. Maddox, Captain Sass, and Lieutenant Pentland are **DISMISSED WITHOUT PREJUDICE**;
3. Plaintiff's claims of unlawful job termination and retaliation by job termination against Defendants Robert Feneis, Denise Barger, Douglas Olson, Calvin Stenlund, Joseph Cosgrove, Jim Zawacki, Tim Gorr, Greg Smith, Beth Walker, Mr. Maddox, Captain Sass, and Lieutenant Pentland are **DISMISSED WITH PREJUDICE**;
4. Plaintiff's Motion to Disqualify Declarations [Doc. No. 98] is **DENIED**;
5. Plaintiff's Motion Challenging Summary Judgment [Doc. No. 99] is **DENIED**;

6. Plaintiff's Motion to Void Counsel's Response [Doc. No. 107] is **DENIED** as moot; and
7. Plaintiff's Motion for Intervention and for Appointment of Counsel Doc. No. 122) is **DENIED**.

Dated: August 19, 2008
at Minneapolis, Minnesota

s/John R. Tunheim
John R. Tunheim
United States District Judge